

Senate Bill No. 207

Passed the Senate April 28, 2005

Secretary of the Senate

Passed the Assembly September 1, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 14602.8 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 207, Scott. Vehicles: driving-under-the-influence: impoundment.

(1) Existing law provides that a peace officer or, in certain other cases, a magistrate, may cause the removal and seizure of a vehicle, under certain circumstances, as specified. Existing law provides that a vehicle so seized may be impounded for 30 days.

This bill would authorize a peace officer to immediately cause the removal and seizure of a vehicle from a person who meets certain circumstances relating to driving a motor vehicle while under the influence of alcohol or drugs, or both (DUI), and who has been previously convicted of DUI within the preceding 10 years. The bill would provide for a 5-day impoundment of that vehicle if the person has been convicted of DUI once within the preceding 10 years, and a 15-day impoundment if the person has been convicted of DUI 2 or more times within the preceding 10 years, subject to a hearing and certain exceptions.

The bill would prescribe procedures to be followed for the release of the vehicle prior to the end of the impoundment period, including a requirement that a legal owner who has obtained possession of the impounded vehicle not relinquish the vehicle to the registered owner until after the termination of the impoundment period and until after the registered owner has presented a valid driver's license or valid temporary driver's license to the legal owner. Because a violation of that requirement and certain other requirements and restrictions imposed by the bill would be an infraction, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 14602.8 is added to the Vehicle Code, to read:

14602.8. (a) (1) If a peace officer determines that a person has been convicted of a violation of Section 23140, 23152, or 23153, that the violation occurred within the preceding 10 years, and that one or more of the following circumstances applies to that person, the officer may immediately cause the removal and seizure of the vehicle that the person was driving, under either of the following circumstances:

(A) The person was driving a vehicle when the person had 0.10 percent or more, by weight, of alcohol in his or her blood.

(B) The person driving the vehicle refused to submit to or complete a chemical test requested by the peace officer.

(2) A vehicle impounded pursuant to paragraph (1) shall be impounded for the following period of time:

(A) Five days, if the person has been convicted once of violating Section 23140, 23152, or 23153, and the violation occurred within the preceding 10 years.

(B) Fifteen days, if the person has been convicted two or more times of violating Section 23140, 23152, or 23153, or any combination thereof, and the violations occurred within the preceding 10 years.

(3) Within two working days after impoundment, the impounding agency shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at the address obtained from the department, informing the owner that the vehicle has been impounded. Failure to notify the legal owner within two working days shall prohibit the impounding agency from charging for more than five days' impoundment when the legal owner redeems the impounded vehicle. The impounding agency shall maintain a published telephone number that provides information 24 hours a day regarding the impoundment of vehicles and the rights of a registered owner to request a hearing.

(b) The registered and legal owner of a vehicle that is removed and seized under subdivision (a) or his or her agent shall be provided the opportunity for a storage hearing to determine the

validity of, or consider any mitigating circumstances attendant to, the storage, in accordance with Section 22852.

(c) Any period during which a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under Section 23594.

(d) (1) The impounding agency shall release the vehicle to the registered owner or his or her agent prior to the end of the impoundment period under any of the following circumstances:

(A) When the vehicle is a stolen vehicle.

(B) When the vehicle is subject to bailment and is driven by an unlicensed employee of a business establishment, including a parking service or repair garage.

(C) When the driver of the vehicle is not the sole registered owner of the vehicle and the vehicle is being released to another registered owner of the vehicle who agrees not to allow the driver to use the vehicle until after the end of the impoundment period.

(2) A vehicle shall not be released pursuant to this subdivision without presentation of the registered owner's or agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(e) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(f) A vehicle removed and seized under subdivision (a) shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of the impoundment period if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person who is not the registered owner and holds a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. A lien sale processing fee shall not be charged to the legal owner who redeems the vehicle prior to the 10th day of impoundment. The impounding authority or any person having possession of the vehicle shall not collect from the legal owner of the type specified in paragraph (1), or the legal owner's agent any administrative charges imposed pursuant to Section 22850.5

unless the legal owner voluntarily requested a poststorage hearing.

(3) (A) The legal owner or the legal owner's agent presents either lawful foreclosure documents or an affidavit of repossession for the vehicle, and a security agreement or title showing proof of legal ownership for the vehicle. All presented documents may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The impounding agency shall not require a document to be notarized. The impounding agency may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the impounding agency, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

(B) Administrative costs authorized under subdivision (a) of Section 22850.5 shall not be charged to the legal owner of the type specified in paragraph (1), who redeems the vehicle unless the legal owner voluntarily requests a poststorage hearing. A city, county, city or county, or state agency shall not require a legal owner or a legal owner's agent to request a poststorage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent. The impounding agency shall not require any documents other than those specified in this paragraph. The impounding agency shall not require any documents to be notarized.

(C) As used in this paragraph, "foreclosure documents" means an "assignment" as that term is defined in subdivision (o) of Section 7500.1 of the Business and Professions Code.

(g) (1) A legal owner or the legal owner's agent who obtains release of the vehicle pursuant to subdivision (f) may not release the vehicle to the registered owner of the vehicle or any agents of the registered owner, unless the registered owner is a rental car agency, until after the termination of the impoundment period.

(2) The legal owner or the legal owner's agent shall not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his or her valid driver's license or valid temporary driver's license to the legal owner or the legal owner's agent. The legal owner or the legal owner's

agent shall make every reasonable effort to ensure that the license presented is valid.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining custody of the vehicle.

(h) (1) A vehicle removed and seized under subdivision (a) shall be released to a rental car agency prior to the end of the impoundment period if the agency is either the legal owner or registered owner of the vehicle and the agency pays all towing and storage fees related to the seizure of the vehicle.

(2) The owner of a rental vehicle that was seized under this section may continue to rent the vehicle upon recovery of the vehicle. However, the rental car agency shall not rent another vehicle to the driver of the vehicle that was seized until the impoundment period has expired.

(3) The rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining custody of the vehicle.

(i) Notwithstanding any other provision of this section, the registered owner, and not the legal owner, shall remain responsible for any towing and storage charges related to the impoundment, any administrative charges authorized under Section 22850.5, and any parking fines, penalties, and administrative fees incurred by the registered owner.

(j) The impounding agency is not liable to the registered owner for the improper release of the vehicle to the legal owner or the legal owner's agent provided the release complies with this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a

crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2005

Governor